

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

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UNITED STATES OF AMERICA, )  
and the STATE OF MISSISSIPPI, )

Plaintiffs, )

v. )

THE CITY OF JACKSON, MISSISSIPPI, )

Defendant. )

Case No. 3:12-cv-790-HTW-LGI  
(Clean Water Act Case)

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UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

THE CITY OF JACKSON, MISSISSIPPI, )

Defendant. )

Case No. 3:22-cv-00686-HTW-LGI  
(Safe Drinking Water Act Case)

**MOTION TO SUPPLEMENT RECORD ON APPEAL**

Pursuant to Federal Rules of Appellate Procedure 10(e)(2)(B) and 10(e)(1), the Interim Third-Party Manager (ITPM), Ted Henifin, files this Motion to Supplement the Record on Appeal<sup>1</sup> and in support thereof states as follows:

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<sup>1</sup> Given this motion's length and substance, the ITPM asks that this Court waive the requirement of a separate memorandum in support.

1. On April 16, 2024, the Court entered an Order (Doc. 107) (SNAP Order) granting the ITPM's motion (Doc. 98) seeking release of certain Supplemental Nutrition Assistance Program (SNAP) information to him to carry out the ITPM's adopted water and sewer rate classifications.

2. On June 14, 2024, the United States and the State of Mississippi filed notices of appeal concerning the SNAP Order. Doc. 126 (State of Mississippi's notice) and Doc. 127 (United States' notice).

3. On July 12, 2024, the record on appeal was forwarded to the U.S. Court of Appeals for the Fifth Circuit. That same day the Fifth Circuit Clerk issued a briefing notice, under which Appellants' opening brief is due by August 21, 2024.

4. Federal Rule of Appellate Procedure 10(e)(2)(B) permits the Court to supplement the record on appeal "before *or after* the record has been forwarded . . . ." (Emphasis added).

5. Moreover, Federal Rule of Appellate Procedure 10(e)(1) states that, when there is a question of whether the record truly discloses what occurred in the district court, the question "*must* be submitted to and settled by that court" and the record conformed. (Emphasis added).

6. There exist certain documents relating to the SNAP Order that are in the Court's possession and/or were referenced by the parties in proceedings before this Court that are not presently a part of the record on appeal. Those documents are as follows:

- a. January 9, 2024 email from Patrick Black with the Mississippi Department of Human Services (MDHS) to the ITPM stating MDHS could not release the SNAP information. (Attached hereto as Exhibit A). During the hearing held on February 27, 2024, Mr. Black referenced having "been in conversation [with the ITPM] related to the proposed SNAP rate for some time now. And MDHS's position has been clear and consistent that

we cannot provide the data as requested due to federal law.” *See* hearing transcript 123:6–12 (included as part of Exhibit A).

- b. The ITPM’s 2024 Financial Management Plan, which incorporated the SNAP rate classification, together with January 31, 2024 emails providing copies of the Plan from the ITPM to representatives of the United States, the State of Mississippi, the City of Jackson, and to the Court. (Attached hereto as Exhibit B). There is no dispute that the Court already possesses a copy of the Plan, and it was referenced by the parties in proceedings before the Court, *e.g.*, February 27, 2024 hearing transcript at 71:16 – 72:8 (included as part of Exhibit B).
- c. February 22, 2024 letter from Robert Anderson with MDHS to the ITPM “RE: MDHS’s Position on Motion for Order to Release Supplemental Nutrition Assistance Program Recipients List,” together with the February 22, 2024 email attaching Mr. Anderson’s letter from Ashleigh Quinn with MDHS to the parties and the Court. (Attached hereto as Exhibit C). There is no dispute that the Court possesses a copy of this letter, and it was referenced by the parties in proceedings before the Court, *e.g.*, February 27, 2024 hearing transcript 123:6–12 and 126:20–24 (included as part of Exhibit C).

7. The documents are needed as part of the record on appeal to more accurately portray what occurred before and what was considered by the Court relating to the SNAP Order and are necessary for a full presentation of the issues on appeal.

Accordingly, the ITPM hereby requests that the Court order supplementation of the record on appeal to include the above-described documents. And given the pendency of the appeal and the pressing need to resolve it as soon as possible for the people of Jackson, the ITPM further requests expedited resolution of this motion.

Respectfully submitted this 1<sup>st</sup> day of August, 2024.

/s/ Malissa Wilson

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